

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of a Penalty Assessment Against	DOCKET UW-170424
T&T PROFESSIONAL SERVICES	ORDER 01
in the amount of \$1,000	DENYING REQUEST FOR HEARING; DENYING CONTEST OF VIOLATIONS; DENYING MITIGATION

BACKGROUND

- 1 On February 28, 2017, the Washington Utilities and Transportation Commission (Commission) mailed annual report and regulatory fee forms to all regulated water companies. The forms included a reminder that companies must file their annual reports and pay their regulatory fees by May 1, 2017, or face penalties of \$100 for each violation of Commission rules. In the case of continuing violations, each day's continuance is a separate violation. RCW 80.04.405.
- 2 T&T Professional Services (T&T or Company) did not file an annual report on May 1, 2017, and had not made that filing by May 15. On June 22, 2017, the Commission assessed a penalty of \$1,000 against T&T, calculated as \$100 per business day from May 1 to May 15.
- 3 On July 6, 2017, T&T responded to the Commission's penalty assessment, contesting the violations and requesting a hearing. In its response, the Company states, "I submitted my annual report in the mail for 2016 on April 13, 2017."
- 4 Also on July 6, 2017, T&T filed a complete annual report. No regulatory fee was due.
- 5 On July 20, 2017, Commission staff (Staff) filed a response recommending the Commission deny the Company's request for mitigation. The penalty assessment notified the Company that mitigation would only be granted if the Company could demonstrate that the violations occurred due to circumstances beyond its control. Because T&T failed to identify any such circumstances, Staff does not support the Company's request. Staff does, however, recommend the Commission suspend a \$500 portion of the penalty on the condition the Company timely files its 2017 annual report by May 1, 2018.

DISCUSSION

6 WAC 480-110-505 requires regulated water companies to file annual reports by May 1 of each year. Companies are responsible for complying with their legal obligations, and the Company should have ensured its report was timely received.

7 As a preliminary matter, we deny the Company's request for a hearing. The Commission's penalty assessment advised the Company that a request for hearing will only be granted if material issues of law or fact require consideration of evidence and resolution in hearing. Here, no issues of law or fact are in dispute. Commission records show that the Company's annual report was not received until July 6, 2017. The facts, therefore, are undisputed, and the law is clear. Accordingly, the Company's request for a hearing is denied.

8 The Commission also denies the Company's contest of the violations. The undisputed facts show that the Commission received the Company's annual report on July 6, 2017, long after the May 1 deadline. The Company has thus violated the law.

9 We agree with Staff that mitigation of the penalty is not appropriate in the circumstances presented here. The penalty assessment advised the Company that requests for mitigation will only be granted if the violations occurred due to circumstances beyond its control.¹ Although T&T argues that it filed its report prior to the deadline, the Company did not provide any documentation to support its claim. Accordingly, we find that T&T failed to demonstrate that the violations occurred due to circumstances beyond its control, and conclude that its request for mitigation should be denied.

¹ Those circumstances include, but are not limited to: death or serious illness of the person responsible for filing the report, or a member of that person's immediate family; destruction by fire or other casualty of the company's place of business or business records; or an act of fraud, embezzlement, theft, or conversion on the part of an employee. Circumstances that do not qualify as an acceptable basis for requesting mitigation include: financial hardship; a misunderstanding or lack of knowledge of Commission rules; failure to receive an annual report form from the Commission; mistakes or misconduct on the part of an employees; employee termination or turnover; personal events such as weddings or graduation ceremonies; and vacations or business trips.

10 Finally, we decline to adopt Staff's recommendation to suspend a portion of the penalty based on the Company's financial status. The penalty assessment expressly excludes financial hardship as a basis for leniency. To reduce the impact of the penalty, T&T may work with Staff to establish a mutually agreeable payment arrangement.

ORDER

THE COMMISSION ORDERS:

- 11 (1) T&T Professional Services' request for mitigation of the \$1,000 penalty is DENIED.
- 12 (2) T&T Professional Services must either pay \$1,000 penalty or file jointly with Staff a mutually agreeable payment arrangement no later than September 14, 2017.
- 13 The Secretary has been delegated authority to enter this order on behalf of the Commissioners under WAC 480-07-904(1)(h).

DATED at Olympia, Washington, and effective August 31, 2017.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

STEVEN V. KING
Executive Director and Secretary

NOTICE TO PARTIES: This is an order delegated to the Executive Secretary for decision. As authorized in WAC 480-07-904(3), you must file any request for Commission review of this order no later than 14 days after the date the decision is posted on the Commission's website.